

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

16CV3744

KIRSTEN ANGELI

RECEIVED

2016 MAY 18 P 11:58

(In the space above enter the full name(s) of the plaintiff(s).)

U.S. DISTRICT COURT SDNY  
COMPLAINT

-against-

DR. ROBERT VOGEL  
CHESNER & VOGEL DDS, PLLC  
JOSEPH PASSARO BRILLAIN STUDIO, INC  
JOSEPH PASSAROJury Trial: ☒ Yes ☐ No  
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

RECEIVED  
SDNY PRO SE OFFICE  
2016 MAY 19 AM 9:57

## I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name

KIRSTEN ANGELI

Street Address

27 PRINCE ST. SK 4

County, City

NEW YORK, NEW YORK

State &amp; Zip Code

NEW YORK, 10012

Telephone Number

917-609-5243

- B. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1

Name

DR. ROBERT VOGEL

Street Address

18 EAST 50TH ST, LLC

County, City New York, New York  
 State & Zip Code New York 10022  
 Telephone Number 212-486-1606

Defendant No. 2

Name CHESWICK & VOGEL D.D.S., PLLC  
 Street Address 18 EAST 50TH ST. 11C  
 County, City New York, New York  
 State & Zip Code New York 10022  
 Telephone Number 212-486-1606

Defendant No. 3

Name JOSEPH PASSARO PORCELAIN STUDIO INC  
 Street Address 162 MADISON AVE, Floor 7  
 County, City New York, New York  
 State & Zip Code New York 10016  
 Telephone Number 212-889-6824

Defendant No. 4

Name JOSEPH PASSARO  
 Street Address 162 MADISON AVE, Floor 7  
 County, City New York, New York  
 State & Zip Code New York 10016  
 Telephone Number 212-889-6824

## II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal Questions

☐ Diversity of Citizenship

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue?

malpractice, gross negligence  
failure to provide results, high fees  
including unqualified people to do work

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship \_\_\_\_\_

Defendant(s) state(s) of citizenship \_\_\_\_\_

## III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events.

You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. Where did the events giving rise to your claim(s) occur? New York, NY
- B. What date and approximate time did the events giving rise to your claim(s) occur? Approximately May 2008 to end of December 2013
- C. Facts: \_\_\_\_\_

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

Please see enclosed pages

#### IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

I'm not sure of all treatments needed  
Bite is off, jaw pain, teeth falling out, unnecessary teeth pulled, damage to natural teeth, jaw and mental distress associated with this work, years I new wine all for close a possibly all implants replaced, I have numbness on my lip causing me to drool, I can't speak clearly as previously, I get headaches & my jaw feels like its popping out & sticks like that I spit saliva when I speak



**V. Relief:**

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation.

RECEIVED  
2016 MAY 18 11:59  
U.S. DISTRICT COURT  
Whatever the wage feels  
is a fair amount for the damages I  
receive both physical & psychological  
during the work and resulting  
after the work with Dr. Robert  
Vogel & the work of Joe Passero

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 18 day of May, 2016

Signature of Plaintiff

Mailing Address

Telephone Number

Fax Number (if you have one)

27 Prince St., Ste 4  
New York, NY 10012  
917-609-5243

**Note:** All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

**For Prisoners:**

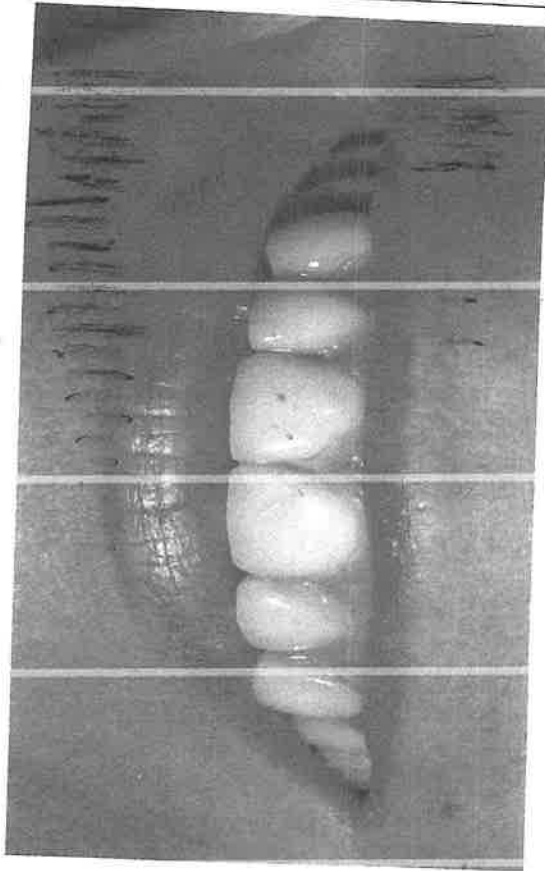
I declare under penalty of perjury that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

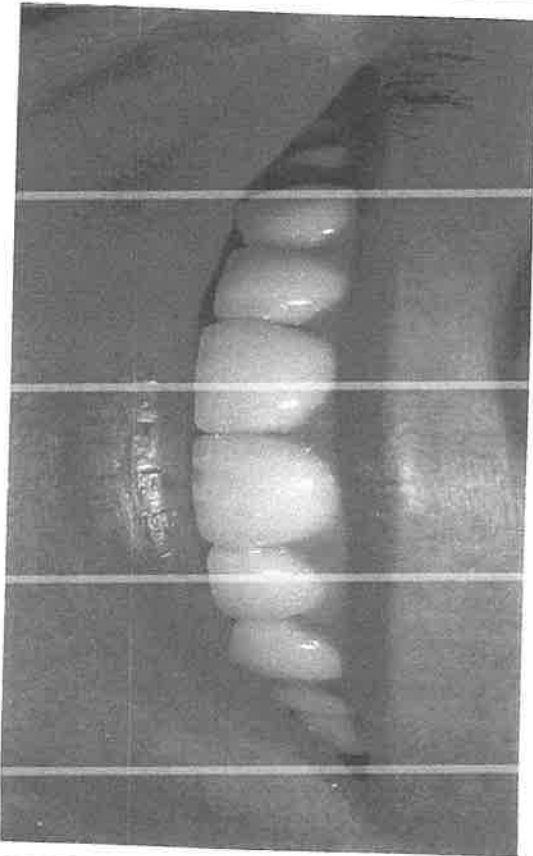
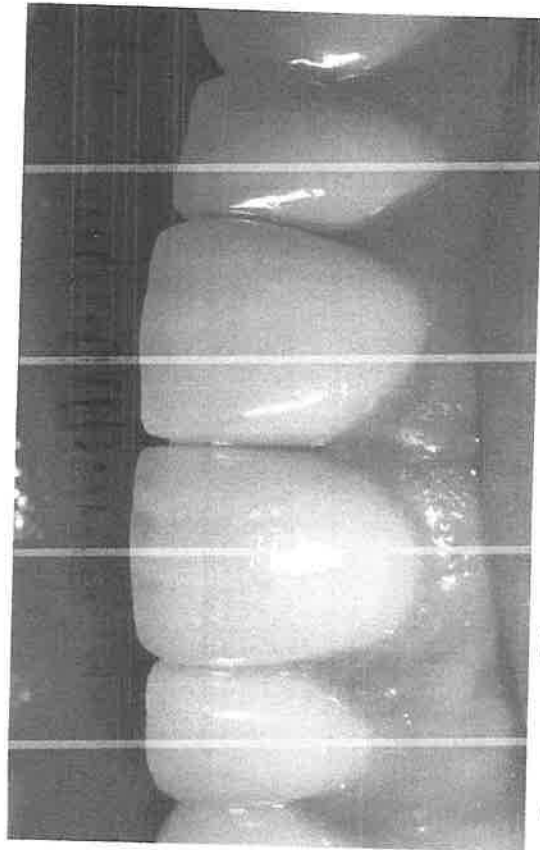
Inmate Number

Kirsten Angeli

Dr. Eckert  
Wells  
Xmas



Teeth  
Dr. Eckert  
said could

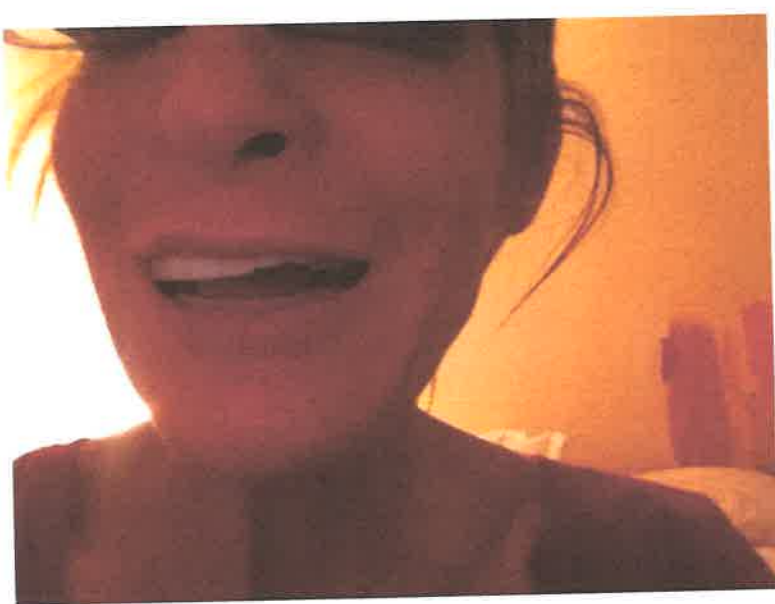




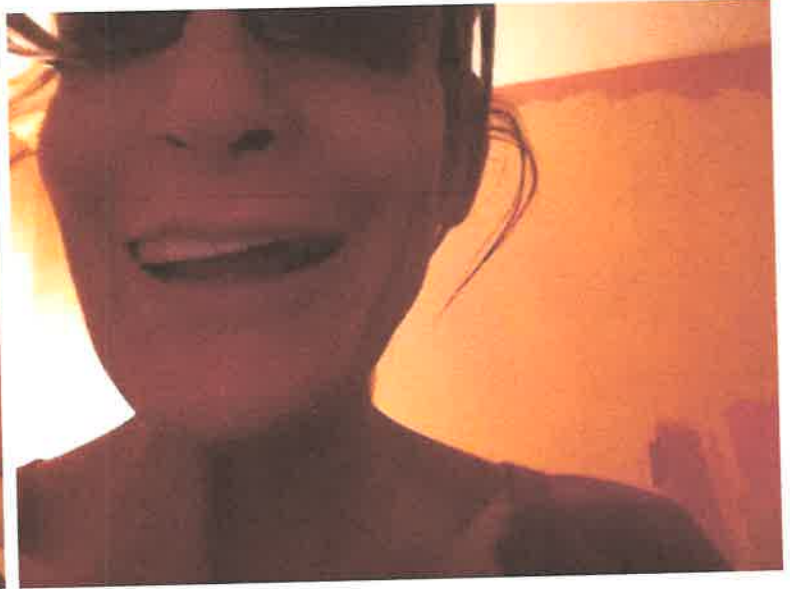




1-emp PS



IMG\_1422



IMG\_1423



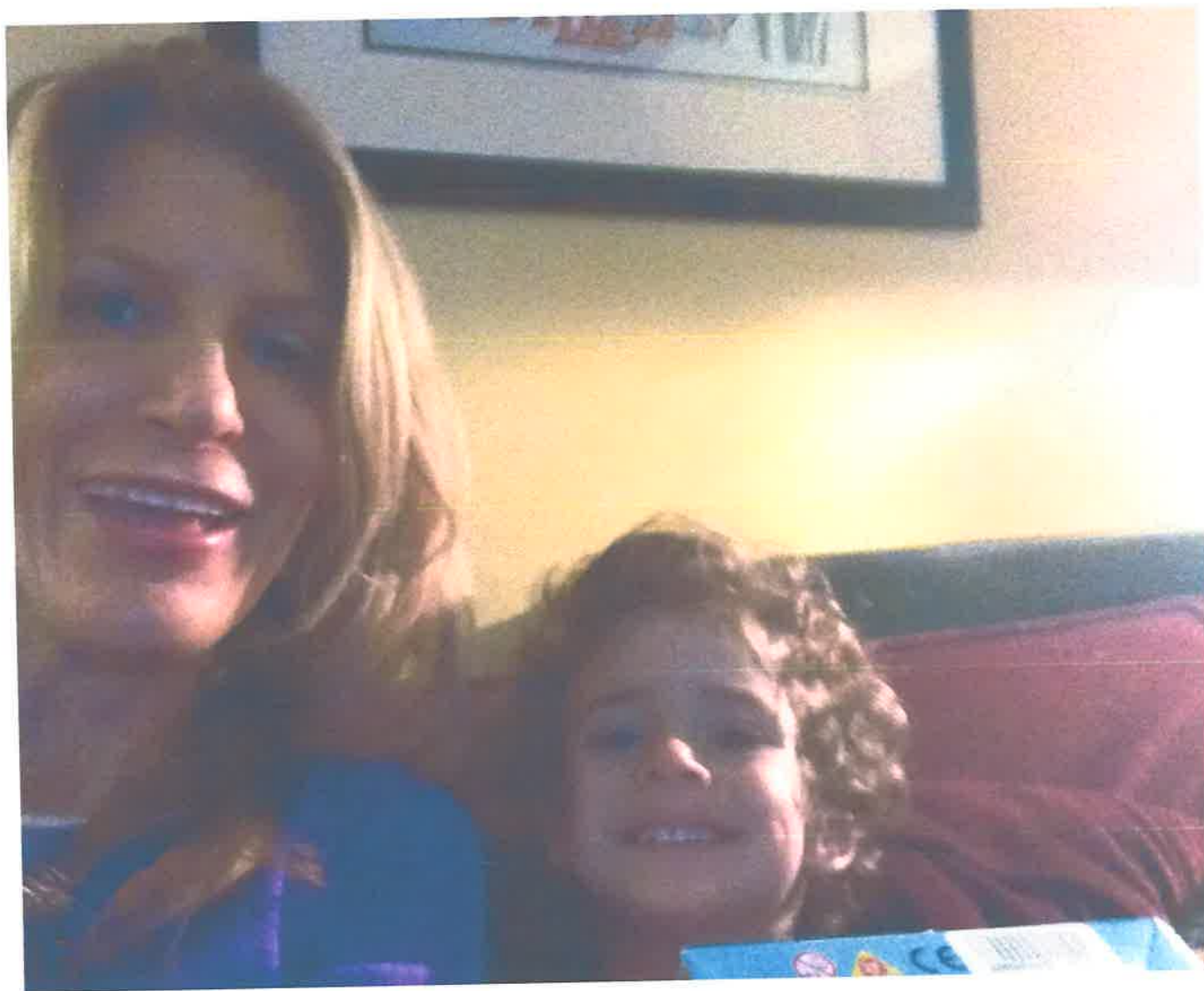
photo

↑  
mip 40's on up cpl years  
← which fore-shortened old teeth

← this is not  
"age" b/c  
didn't Δ over  
20 yr. span  
as evidenced in other  
pics



From: **Kirsten** kirsten@kirstenangeli.com  
Subject: Dr Vogel temps  
Date: February 25, 2015 at 7:48 PM  
To: **Kirsten Angeli** kirsten@kirstenangeli.com



From: **kirsten angeli** kirstenangeli@mac.com  
Subject: Pics of teeth for Joe  
Date: January 10, 2013 at 1:48 PM  
To: chesvogdds@aol.com

Hi Maria. Please forward this message to Dr. Vogel. I want him to give these pics to Joe. The first pic is approx. 5 years old and the others I took today to demonstrate the change in my jaw shape that he is restoring. He has a few pics but I thought these side by side may assist. Thanks-Kirsten

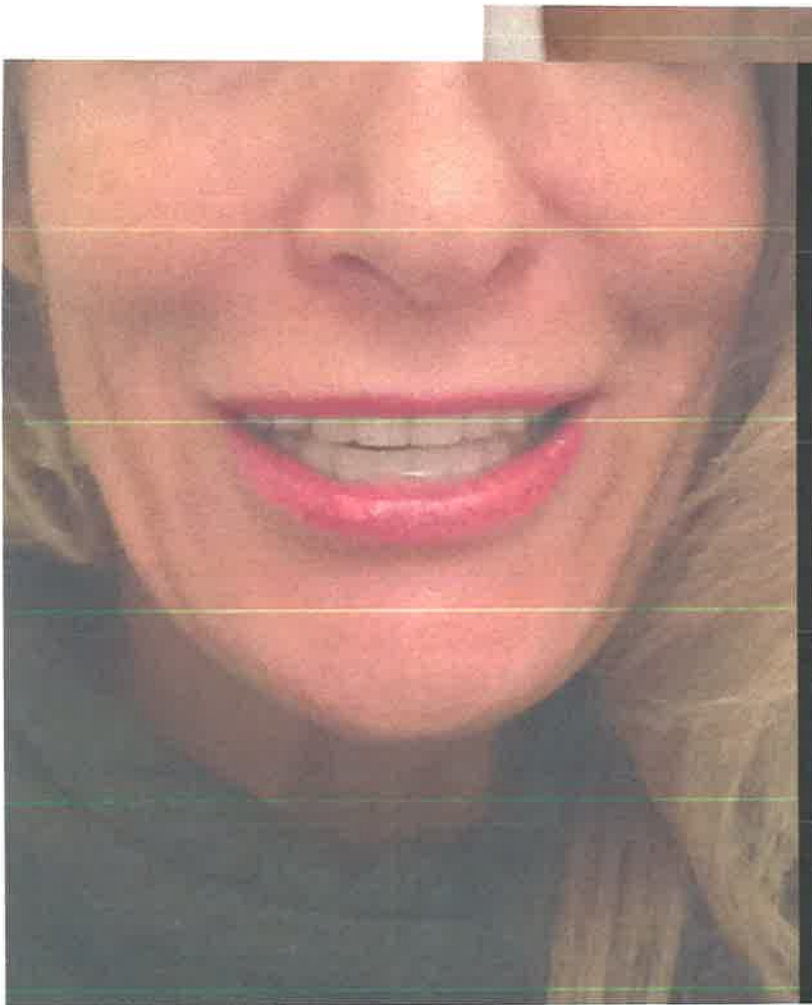


← Temp



← Temp





← temp

Chin is round and bulky I want my pointy chin

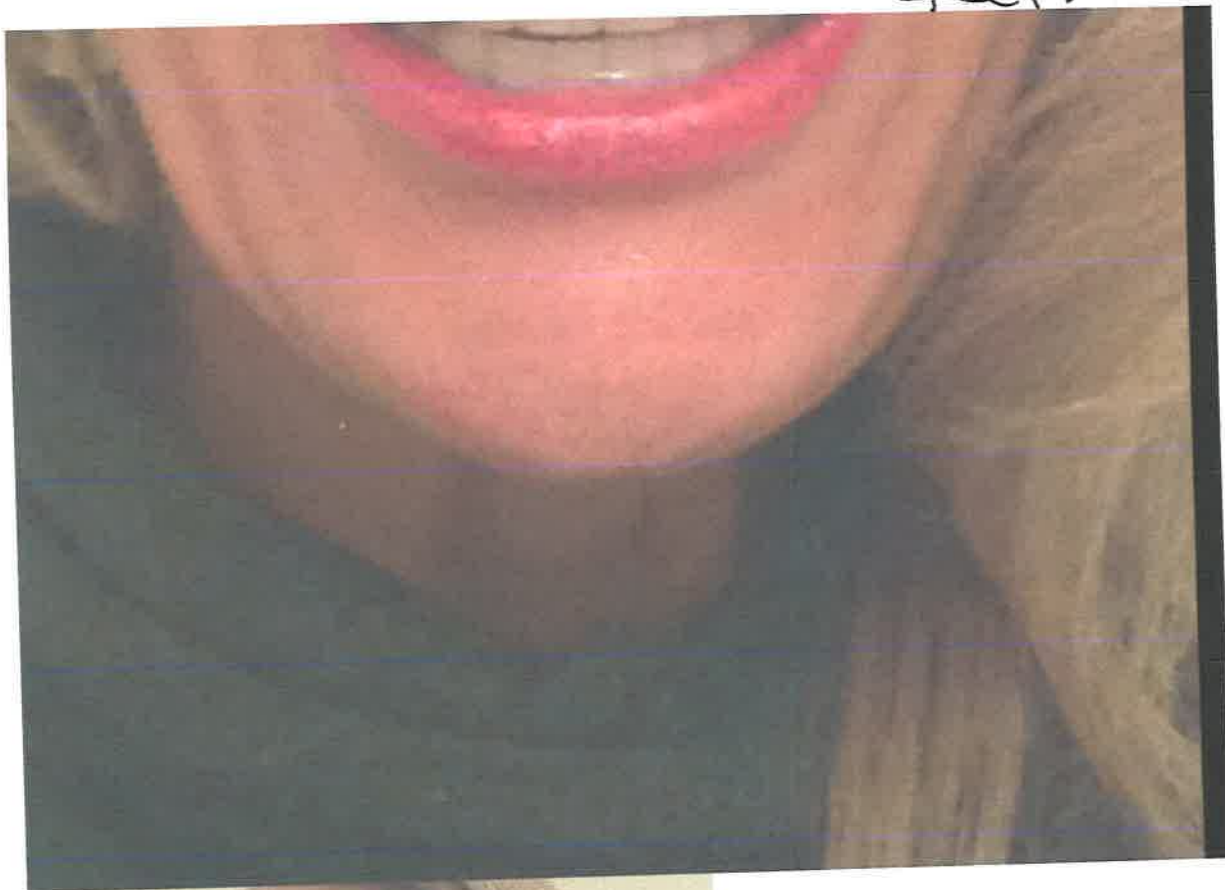


Final  
Teeth  
← From  
Dr. Vogel  
& Joe Passaro





temp to get him  
to the  
teeth.



mid 40's

These temps  
he found in  
oldy charter  
w/ my first temp  
chicken scratch  
I told him  
that were not  
mine they  
were their  
he didn't  
believe

he didn't believe until  
temps from  
inserted



Kirsten Angeli complaint Part 3C: Facts:

In May 2008 I was referred to Dr. Vogel by a dermatologist I had been seeing for 10 years, who knew me well. He saw my teeth and that I was upset about the dental work that Dr. Michael Mass had just completed. I knew aesthetically the teeth were off but I was unable to determine the health of my teeth, not being a dentist. Dr. Mass didn't do implants, but he was supposed to have taken care of any decay, update my veneers/caps, keeping them visually as they were. Dr. Ochi who had referred me to Dr. Mass when I moved to NYC had been my dentist for 15 years, and had done a fantastic job with veneers. Dr. Mass was supposed to have kept the look of my teeth that had been done by Dr. Ochi. He called it a total restoration and was giving a discounted price for paying for the work all at once.

May 2008 was my first visit to Dr. Vogel. at his 50<sup>th</sup> street office in New York, NY. Dr. Vogel seemed very knowledgeable and was a very likeable, and had a great reputation. He counted many celebrities in his clientele which implied that he had a good sense of aesthetics. This was important to me because my job required me to look a certain way and to be able to speak well. I gave him a picture of my teeth and he assured me he could do the work and that my teeth would look like they had before, with Dr. Ochi's work. I let him know that it was very important to keep the original shape of my teeth because of a surgery I had when I was in my 20's a tumor removed and my carotoid artery. As a result the nerve on the left side of my tongue was damaged The nerve was damage to my left vocal chord. It had taken many years of therapy additional surgeries to learn to speak properly again.

During my first visit with Dr. Vogel he agreed that my teeth were visually off and explained that there was extensive damage underneath caused by the previous dentist. He said he



Kirsten Angeli complaint Part 3C: Facts:

could get the aesthetics and the health of my teeth back but it would take surgery and several months. To do this he would create a treatment plan using different top specialists to help me accomplish the task. He wanted me to see Dr. Simon a periodontist and then return to his office so he could review the results with me and make a plan. He said it would be costly and gave me a lawyer's name to sue the previous dentist for the damage he had caused my teeth.

I brought all of my records to Dr. Vogel from Dr. Ochi. Dr. Ochi also offered to speak with Dr. Vogel or anyone involved.

Early on we discussed the fact that I wanted individual teeth. Nothing was ever mentioned to me in the first years that I could not have this or the teeth in the picture. We discussed it and I made the point again that I did not want connected teeth.

The work began and at that point I had never had an implant.. We were always working toward the end result that was to be completed within a year. THE first implat surgery was in the summer of 2008. I never received a formal treatment plan and I repeatedly asked. There were issues with the surgeries and the fact that theykept happening when I was told one would be the last. It felt like I would have a root canal and then that same tooth would have to be pulled.

I had trust in Dr. Vogel. I saw the problem with the previous dentist as an isolated incident, as I had never had any problems with doctors or dentists prior.\_I did not have my family here and I had not prepared for this in any way. I started to see things happening that concerned me. I was constantly going back to Dr Vogel because my teeth started falling out. did not make temps that were to be like the finals.

Kirsten Angeli complaint Part 3C: Facts:

He connected the teeth without my consent He did not give me the option of contacting another dentist who may of been able to make corrections to get the results he had agreed to.

He did not tell me that anything had been done during surgery that would necessitate connected teeth rather than individual. Nor did he tell me at any point my teeth and jaw would change drastically and affect my speaking and give me the sensation of choking on the back of my tongue. I told him him I was uncomfortable and he kept telling me this would be fixed and I would get the teeth we agreed upon. He only told me after the periodontist was no longer working on the case that the periodontist had to place the implants in a manner that would not facilitate ithe outcome we he had told me he was going to produce

HE did not tell me they were going to be connected when he came to the conclusion that there was no alternative he did not give me the option of getting a second opinion. HE never said anything about the surgeries would permanently change the shape of my teeth or mouth before or immediately after. He continually said he would be able to create the teeth we agreed upon.

When I asked him how we could get the desired result, he said they had to be where they were because of bone loss. When I reminded him that the perio had grown bone and the subject of taking from the hip bone came up and he said I wouldn't want that, and I said that I would have wanted that I would do anything because I was so uncomfortable in the bridges/crowns he had made. He then proceeded to inform me that I will love my teeth when he's finished I should just give him a chance.

THE teeth did not improve. Joe took a long time to make the new bridges and again did not listen and said he's be able to get a much better result and produced did not. So on December 19th, 2013 I went in to try on the teeth and he said that was all he and Joe could do. THE bottom was not noticeable changed in any way. I had one bridge in the top that he left and added another that didn't line up or match in color and I had a loose cap on the tooth that had the root

## Kirsten Angeli complaint Part 3C: Facts:

canal. I told him the cap was loose and he just said that's all he could do. The bridges don't go all the way back its like I'm missing several back teeth and it shows when I smile. As a patient, I don't he forgot or decided against it. I had so many different temps and bridges going in and out of my mouth over these years between 2008 and 2013 that it was difficult to know what was causing the discomfort and I could never get Dr. Vogel to address the problem in a way that had a remedy.

Joe Passaro worked on my case between sometime between May 2008 and December 2013. I cannot give exact dates because Dr. Vogel chose him to do the porcelain work and I do not know when that was because it was before I met Joe. He came to speak with me about the fit of my bridges/teeth (I will refer to them as teeth/crowns because I do not know definitively when teeth became crowns and the bridges. I know that I was supposed to have individual teeth with the exception of one small bridge with 2-3 teeth that I had begrudgingly agreed but non other than that.) What I do know is that Joe Passaro never made temps or final bridges/teeth anything like we discussed or at all like the many photos I gave him of my previous teeth he was to emulate. We had meeting with him a few mornings. He could only come between a small window of hours and Dr. Vogel would make sure for the most part that Evita, Dr. Vogel's assistant, Dr. Vogel and myself were there before calling him to come. I would bring photos of the teeth he was supposed to make and nothing he made for my mouth was anything remotely like the photos or our discussion. He refused to write anything down. Evita asking him on several occasions if he needed a pen or paper to write the many details down. I him copies of photos to keep of my teeth from different angels. Additionally Maria the office manager sent him emails with the photos. He took many months longer than he said to do the work-sometimes months would go by with Dr. Vogel saying Joe's working on my case and he would have completed nothing and then have to come in again to have the same discussion where we all met at his preferred time. Dr. Vogel would not use anyone else I had to wear Dr. Vogel's temps which fell out sometimes 3 times a week and did not fit. Once Dr. Vogel gave me 3 front teeth instead of two and another time they were diagonal only showing on one side



## Kirsten Angeli complaint Part 3C: Facts:

going up at a slant. (please see included pictures). I initially asked for the teeth to be made in Los Angeles and Dr. Vogel told me Joe Passaro was better than anyone. Dr. Vogel's response to Joe's poor work was for me to just wait because the finals will be like we discussed. I can give approximate dates only but in December of 2010 Joe finished the final teeth/bridge for the top which was totally off and uncomfortable, nothing like we discussed. I went to his office where he said he would correct, they were all wrong but just to wear until he made new one's. I sat there in his lab for 2 days waiting and within 5 minutes of picking them up he cuts them across horizontally and says something to the effect of "Oops, I ruined these." He didn't have cement to reinsert the now short teeth so I had to go back to Dr. Vogel's office and have them recemented before my trip or have nothing but gums. Joe did the same thing with the next set of finals. Between the two sets of finals I incurred more damage and had to get more implants with another periodontist helping extend the work into over four years rather than 1. I was treated without respect in that Joe would talk in a condescending manner circulating his words as if to confuse me by diverting the question. I told Dr. Vogel I was recording them so we would have a record. I am extremely uncomfortable because of the work both Dr. Vogel and Joe did on my teeth both during and now years later. They still feel as bad as when they first inserted. Its not something I can get used to. I have been told by a prosthodontist that the teeth appeared to be made too short which makes sense as everything came back shorter after Joe cut the teeth in half horizontally. I am including photos. My jaw feels like its popping out of the socket and sticks. My front tooth had cracked in half horizontally eating a soft bagel soon after the work was completed and I can't put any pressure or it will break again so I can't eat many foods. My left tooth that was loose when Dr. Vogel put the finals it fell out soon after and cannot be put back in. I'm told I will have to have another implant there. The tooth/crown behind that has cracked in half. I cannot chew meat because there is not enough surface area on the sides and back and the teeth are not sharp. Everyday I think about my teeth because of the claustrophobic feeling of the bottom. This is particularly alarming because I already have difficulty swallowing and not all the use of my tongue which Dr. Vogel is aware of and was aware from the

## Kirsten Angeli complaint Part 3C: Facts:

beginning when he said he could make the teeth. Dr. Vogel was unwilling to bring anyone in to help him correct what he could not do or the others he brought in to work on my case. Dr. Ochi who had made the teeth he was supposed to match and sent all his records with big photos of the teeth and he had offered to consult at any point if Dr. Vogel needed help to gain the agreed upon result.

Lastly Dr. Vogel wrote me false letters accusing my missing appointments as a possible cause for him to not achieve the results. He did not send these in response to my being late. He sent one during the time he offered to talk to the periodontist about bring his prices down for the additional implants I was required to have that were discovered between the first failed final teeth and the second. Dr. Vogel told me that Dr. Simon was kidding when he refused to take down his price and he said he would talk to him. I asked many times what the result was and Dr. Vogel said he wasn't able to get the answer or he hadn't a chance to speak with him. I was wearing ill fitting temps so I was wanting to get this done quickly. I received the letter from Dr. Vogel during this time and can prove this. He then said he would recant the letter when I reminded him it was false. He kept telling me he would. The whole office knew. THEN one day he says his lawyer will not allow him to change the record once its written. I reminded him it was untrue and he said he would write something that would be the same as changing the record. HE never produced it and one day I set as the final day and I arrive at his office and I'm told by the receptionist he won't be writing it. Dr. Vogel and I had an argument over this and it was too late for him to do the work for that day. I then received another letter from him a couple days later that says again I the outcome could be jeopardized by my not going in for appointments and I was there in his office. HE also wrote false statements or rather statements that gave an unfavorable view of me.

In 2013 I had a sore spot on a tooth, that I had continually asked Dr. Vogel to check. He x-rayed it and saw nothing on the x-ray, but if I was still concerned I could go to see Dr. Schulman. I knew if I went to see him, it would mean a root canal and cost \$2,000.

Kirsten Angeli complaint Part 3C: Facts:

I had told him 2 years ago, but he didn't check it. I said I couldn't do that unless he would pay for it because I had asked him to check the tooth for over a year. When I got home, there was a call from Vogel's office saying Dr. Schulman would not charge for the visit.

When I went to see Dr. Schulman he saw that it was very infected, so it took more than one visit, but he did a root canal. When he misdiagnosed the tooth as an implant and I had to have a root canal. I had gone to his office to have him finish the root canal and I was still swollen and sore. I had finished my antibiotics. HE told me the swelling made it difficult for him to work on my teeth and that I should go home for a week. I went to my ENT because Dr. Vogel said the pain was not dental related. I therefor thought I had a sinus infection which I told Dr. Vogel. It turned out to be an abscess travelling towards my brain and stemming from that tooth. My ENT had to call him to make sure Dr. Vogel took the infection seriously and said he would be following up to see that the infection was taken care of. Dr. Vogel wrote in his record something to the effect of "ENT called me- patient said she had a nasal infection but it wasn't true!" He wrote nothing in the record about the abscess. I also noticed he writes in several areas that I was late to other doctor's appointments which does not seem like something a dentist would customarily do. I feel as if he is purposely trying to imply a poor impression of me. Aside from the pain and length, this was very stressful having Dr. Vogel send these letters and write these words.



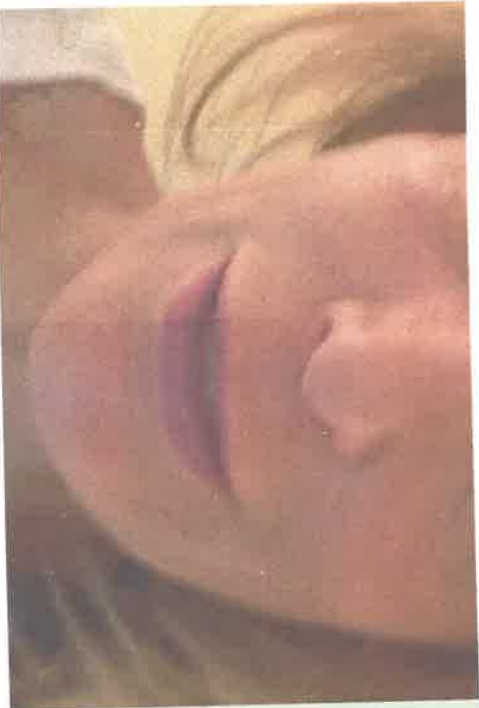
☐ Pics of teeth for Joe — Dr. Simon&Vogel

To: chesvogdds@aol.com  
Pics of teeth for Joe

Hi Maria. Please forward this message to Dr. Vogel. I want him to give these pics to Joe. The first pic is approx. 5 years old and the others I took today. I change in my jaw shape that he is restoring. He has a few pics but I thought these side by side may assist. Thanks-Kirsten



← This is when the ted the wear the new teeth (a yellow & slightly different in half



← I went to office for an adjustment & had to wear the for month.  
← These are Dr's  
pics

Kirsten ANGELL  
27 Prince St. Ste 4  
New York, NY 10012

COMPLAINT FOR

Pro Se

500 Pearl St.  
NY, NY

USM<sup>5W</sup>  
SDNY

RECEIVED  
SDNY PRO SE OFFICE  
2016 MAY 19 AM 9:58